

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

No. 2:03-cr-02023-SAB

Plaintiff,

V.

PAUL E. HINES,

**ORDER DENYING
DEFENDANT'S MOTION TO
VACATE, SET ASIDE, OR
REDUCE SENTENCE;
GRANTING MOTION TO
WITHDRAW**

On June 24, 2014, Defendant filed a Motion to Vacate, Set Aside, or Correct Sentence. ECF No. 111. A briefing schedule was set and on October 31, 2014, proceedings were stayed for ninety days or until the Ninth Circuit Court of Appeals issued a decision in *Ezell v. United States*, 14-71696. ECF No. 123. The Court of Appeals issued its decision in *Ezell* on January 23, 2015. This Court ordered parties to file a Status Certificate updating the Court on this matter, ECF No. 125, and Defendant did so on July 14, 2015. ECF No. 128.

Defendant's motion to vacate, set aside or correct sentence was premised on the Supreme Court's decision in *Descamps v. United States*. 133 S. Ct. 2276 (2013). At the time Defendant filed the pending motion, the Ninth Circuit Court of Appeals was considering *Ezell*, which concerned whether *Descamps* applied retroactively. In *Ezell*, the Ninth Circuit ruled that *Descamps* does not apply

**ORDER DENYING DEFENDANT'S MOTION TO VACATE, SET ASIDE,
OR REDUCE SENTENCE; GRANTING MOTION TO WITHDRAW # 1**

1 retroactively. Defendant concedes the *Ezell* ruling, as well as other related case
2 law, forecloses relief in this matter as it renders his motion untimely. The Court
3 concurs. Accordingly, the Court denies Defendant's motion.

4 Defense Counsel moves to withdraw from this matter. Because there are no
5 remaining pending issues, the Court grants counsel's request, and closes this file.

6 Accordingly, **IT IS HEREBY ORDERED:**

- 7 1. Defendant's Motion to Vacate, Set Aside, or Correct Sentence, ECF No.
8 111, is **DENIED**.
- 9 2. Defense Counsel's Motion to Withdraw, included in ECF No. 128, is
10 **GRANTED**.

11 **IT IS SO ORDERED.** The District Court Executive is hereby directed to
12 file this Order, provide copies to counsel and **close the file**.

13 **DATED** this 3rd day of September 2015.



17 A handwritten signature in blue ink that reads "Stanley A. Bastian".

18 Stanley A. Bastian
19 United States District Judge
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**ORDER DENYING DEFENDANT'S MOTION TO VACATE, SET ASIDE,
OR REDUCE SENTENCE; GRANTING MOTION TO WITHDRAW # 2**